IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 23428 of 2004

Between:

1. Kotte Sudhakar S/o. sailu,

Resident of Kannala village, kamanpur Mandal, Karimnagar Distirct.

2. Ganapathi Pochalu, S/o. Mondaiah,
R/o. Bodaguttapalli Village, H/o. Kannala Village, Kamanpur (M), Karimnagar District.

..... PETITIONERS

AND

1 The Superintendent of Police, Karimnagar.
2 The Deputy Superintendent of Police, Peddapalli, Karimnagar District.
3 The C.I. of Police, Peddapalli, Karimnagar District.
4 The S.I. of Police, P.S. Basanthnagar, Karimnagar District.
5 The Mandal Revenue Officer, Kamanpur Mandal, Karimnagar District.
6 Santi Ganapathi, S/o. Rajaiah,
R/o. Bompally Village, Peddapally Mandal, Karimnagar District.
7 Jangli Parvathalu, S/o. Komaraiah,
R/o. Brahmanpally Village, Peddapally Mandal, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more in the nature of writ of Mandamus directing the respondent No. 1 herein to cause an enquiry with regard to allegations made by the respondents 6 and 7 herein against the petitioners alleging dispossession from the property bearing Sy.Nos. 490/2, 490/3 and 493/2 in an extent of Ac.3.01 gts, situated at Kannala Vg.Kamanpur Dist Karimnagar Dist. And also with regard to running of the Industry in the above said property by duly declaring the action of the respondents 2 to 4 herein interfering with the business activities of the petitioners under the name and style of M/s. Mahalaxmi Stone Crusher at the instance of respondents 6 and 7 herein and also threatening the petitioners that a case under SCs & STs (Prevention of Atrocities) Act would be registered against the petitioners in nothing but arbitrary, illegal and violative of Art 14, 19 and 21 of the Constitution of India and pass such other order or orders.

WPMPNO.30733 OF 2004

Petition under Section 151 of CPC praying the High Court to direct the respondents 2 to 4 herein not to interfere with the petitioners to carry on the business under the name and style of M/S.Sri Mahalaxmi Stone Crusher situated in Sy.Nos.490/2,490/3 and 493/2 in an extent of Ac.3.01 gts, situated at Kannala Vg.Kamanpur Mandal, Karimnagar District. Pending W.P.No.23428 of 2004 on the file of the High Court.

Counsel for the Petitioners: MR.V.RAVI KIRAN RAO

Counsel for the Respondent No.1 to 4: GP FOR HOME

Counsel for the Respondent No.5: GP FOR REVENUE

Counsel for the Respondent No.6 & 7: I.AGA REDDY

The Court made the following :

ORAL ORDER

The writ petition is filed complaining that the petitioners were dispossessed from their property which was in Sy.Nos.490/2,490/3 and Sy.No.493/2 in an extent of Ac.3.01 guntas situated at Kannala village, Kamanpur Mandal, Karimnagar District by the respondents 2 to 4 without any authority of law and at the instances of Respondents 6 and 7.

According to the petitioners, the land in question was assigned to respondent Nos.6 and 7 and final pattas were issued on 28-07-1998 in their favour for agricultural purposes. Further, it is pleaded that the respondent Nos.6 and 7 have constituted into a partnership under a deed dated 25-07-1998 for the purpose of establishing a stone crushing unit. Subsequently, the respondent No.6 retired from partnership business, relinquishing all his rights in favour of respondent No.7, whereupon respondent No.7 entered into a partnership agreement with three (3) other new partners for carrying on business in stone crushing. The 7th respondent also retired on 11-05-2000 in favour of the remaining three partners who were newly admitted in 1999. Thereafter the three remaining partners executed a partnership deed dated 02-06-2000 with another three (3) persons constituting a new partnership. The new partnership firm, had in 2000, permitted the petitioners to run stone crushing business. According to the petitioners, at the instance of the respondent Nos. 6 and 7 who have no subsisting right and title or interest in the property, respondent Nos.2 to 4 are interfering with their pursuit of business and threatening the petitioners with dispossession from the property in question. The petitioners also allege that respondent No.6 who belongs to an “SC” community made an application to the revenue authorities invoking the provisions of the SCs & STs (Prevention of Atrocities) Act,1989 against the petitioners alleging encroachment of assigned land and that the petitioners learnt that the 1st respondent assured them that he would look into the matter. On these pleadings, the petitioners sought a

direction to the respondent Nos.2 to 4 not to interfere with their business in the land in question.

This Court, by an interim order dated 20-12-2004, directed that the respondents in the writ petition should not interfere with the possession and enjoyment of the lands by the petitioners except where any specific case is registered under any relevant provision of law.

On behalf of the respondent Nos.6 and 7 an application to vacate the interim direction was filed in WVMP No.193 of 2005. The 4th respondent has also filed a counter-affidavit categorically and unambiguously asserting that after the application of the 6th respondent invoking the provisions of the SCs & STs Atrocities Act,1989 against the petitioners and their partners alleging encroachment by them of the lands assigned to the complaining respondent, the 2nd respondent on receipt of a further letter from the Chairman of SCs & STs Commission dated 29-11-2004 calling upon the C.I of Police, Pedapalli, Karimnagar District to look into the matter, the respondent Nos.3 and 4 caused enquiries into the contents of the letter of the Chairman of the SCs & STs Commission and came to a conclusion that the dispute is purely civil in nature. Thereupon, the police advised both the parties to settle the issues amicably or pursue the remedies before the competent Court. Thereafter, the police never called either of the parties to the Police Station and not threatened anybody. In substance, the 4th respondents' counter-affidavit asserts that the allegations in the writ petition regarding interference by the respondent Nos.2 to 4 with the possession of the petitioners in respect of the land in question is false and baseless.

Sri I.Aga Reddy, the learned counsel for the respondent Nos.6 to 7 states that after obtaining interim order dated 20-12-2004, the petitioners broke open the locks of the crushing unit and entered upon the premises and commenced the crushing business. Earlier, at the instance of the Mandal Revenue Officer, the 5th respondent, the unit was seized under the A.P. Assigned Lands (Prohibition of Transfer) Act,1977. It is stated by

Sri I.Aga Reddy that by the proceedings dated 29-12-2003, the 5th respondent-Mandal Revenue Officer directed the Gram Panchayat Secretary to takeover possession of the land as per Section 3(1) of the A.P. Assigned Lands

(Prohibition of Transfer) Act 1977 and handover the same to the 6th respondent and another Jangli Parvathalu who are the assignees. According to Sri I.Aga Reddy pursuant to the order of the 5th respondent, possession of the land was taken over on 05-10-2004 and the premises was locked, but, the petitioners on the strength of the interim order forcibly entered upon the premises, broke open the locks and resumed possession.

In view of the clear assertion in the counter-affidavit of the 4th respondent that the respondent Nos.2 to 4 are not interfering with the possession of the petitioners of the property in question, no case for interference in this writ petition is made out. If the petitioners are aggrieved by any interference by the 6th respondent, they are at liberty to pursue their appropriate remedies before the jurisdictional Civil Court seeking injunctive or other reliefs. Insofar as the 5th respondent is concerned, the said respondent is at liberty to pursue appropriate action against any person or authority for violation of the provisions of the A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 including the petitioners, if facts warrant such action against the petitioners. As the respondent Nos.2 to 4 have clearly stated that they are not interfering, no Mandamus need be issued.

On the above analysis, the writ petition is misconceived. No case is made out for interference and accordingly the writ petition is dismissed. The interim order dated 20-12-2004 stands dissolved.

_____

GODA RAGHURAM,J

2ND FEBRUARY 2005

*TSNR

TO

1 The Superintendent of Police, Karimnagar.
2 The Deputy Superintendent of Police, Peddapalli, Karimnagar District.
3 The C.I. of Police, Peddapalli, Karimnagar District.
4 The S.I. of Police, P.S. Basanthnagar, Karimnagar District.
5 The Mandal Revenue Officer, Kamanpur Mandal, Karimnagar District.
6 Two CCs to GP for Revenue and Home respectively, High Court Buildngs, High Court of A.P. Hyderabad.

7. Two C.D.Copies.